

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARISSA VOLLER, ET AL.,)	
Plaintiffs)	
v.)	Cr. No. 05-10933-MLW
)	
BRIDGEWATER-RAYNHAM)	
SCHOOL DISTRICT, ET AL.,)	
Defendants)	

ORDER

WOLF, D.J.

February 15, 2006

For the reasons stated in court on February 14, 2006, it is hereby ORDERED that:

1. The defendants' Motion to Dismiss (Docket No. 9) is ALLOWED.

2. The plaintiffs shall by March 8, 2006, file an amended complaint or a statement that the court may dismiss the entire case without prejudice. As explained at the February 14, 2006 hearing, the amended complaint may allege violations of the plaintiffs' right to substantive due process, and right to procedural due process based on an alleged failure of defendants to provide the statutorily required notice of administrative remedies, justifying an exception to the exhaustion requirement of the Individuals with Disabilities Education Act. See Frazier v. Fairhaven School Committee, 276 F.3d 52 (1st Cir. 2002). Any amendment to allege any other grounds to excuse plaintiffs' failure to exhaust administrative remedies would be futile.

3. If the plaintiffs amend their complaint, the defendants shall, by April 7, 2006, file a motion to dismiss or an answer.

4. The plaintiffs shall, by May 5, 2006, respond to any motion to dismiss.

5. A hearing on any motion to dismiss will be held on June 2, 2006, at 3:00 p.m.

/s/ MARK L. WOLF
UNITED STATES DISTRICT JUDGE